

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. Claims 1, 6, 7, 11, 12, and 16 have been amended. No new matter has been added. Claims 1, 2, 6, 7, 10, 11, 15, and 16 remain pending in this case. This application has been carefully reviewed in light of the Official Action mailed July 11, 2005. Applicant respectfully requests reconsideration and favorable action in this case.

Restriction Requirement

The Examiner states that claims 1, 6, 7, 10, 15, and 16 are generic. Further, the Examiner states that restriction is required under 35 U.S.C. § 121 to one of the following inventions:

Group I: Claims **2, 11**, directed toward analyzing customer behavior based on a Distance-to-Store model (Section 4.3.1, Paragraphs 96-103); or

Group II: Claims **3, 12**, directed toward analyzing customer behavior based on a Geographic Indicators model (Section 4.3.2, Paragraphs 104-106); or

Group III: Claims **4, 13**, directed toward analyzing customer behavior based on a Distance-to-Store model (Section 4.3.1, Paragraphs 96-103); or

Group IV: Claims **5, 14**, directed toward analyzing customer behavior based on a Geographic Indicators model (Section 4.3.2, Paragraphs 104-106); or

Group V: Claims **9, 18**, directed toward analyzing customer behavior based on an Average Spending model (Section 4.2, Paragraph 91
on a Distance-to-Store model (Section 4.3.1, Paragraphs 96-103); or

Group VI: Claims **8, 17**, directed toward analyzing customer behavior based on a Global model (Section 4.4, Paragraphs 107-116).

As agreed in the previous telephone conversation with the Examiner, Applicant elects the claims of Group I for further prosecution at this time.

Rejections under 35 U.S.C. § 101

Claims 1, 2, 6 and 7 stand rejected under 35 U.S.C. § 101. In particular, the claims were deemed by the Examiner to be directed to non-statutory subject matter. Claims 2, 6, and 7 depend from Claim 1. Claim 1 has been amended to recite the limitation that the data is stored on a computer-readable medium, thus obviating the rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 11, 15 and 16 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 11 and 15 were amended to eliminate the word 'method' and to recite the language found in the preamble of Claim 10. Claims 7 and 16 were amended to recite the limitation that the variable 'N' represents the number of transactions being analyzed. Support for this limitation occurs in paragraph [0055] of the Specification. Therefore, Applicants respectfully request the Examiner withdraw the rejection.

Rejections under 35 U.S.C. § 102

Claims 1, 6, 10 and 15 stand rejected as anticipated by U.S. Patent No. 6,078,892 ("Anderson"). The standard for "anticipation" is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP § 2131. Anderson does not disclose each and every element set forth in the pending claims, some distinctions of which are set forth below.

Claim 1 recites:

A method of predicting a business potential for a first customer comprising: accessing data stored on a computer-readable medium regarding the first customer of a vendor; and assigning a value for the business potential for the first customer, wherein the value is a function of at least a behavior for a group of other individuals in a population and is based at least in part on the data, and wherein the business potential measures a potential transaction quantity for the first customer.

Thus, Claim 1 recites a method of predicting business potential for a customer comprising accessing data regarding a customer, and assigning a value for the business potential of that customer, where the value is a function of at least a behavior for a population, based at least in part on the accessed data. As recited by paragraph [0042] of the specification, a customer's business potential is defined as the amount of money, web-clicks, or other transactional quantity of commercial interest that customer has to transact in a particular business segment (for instance, in hotel night stays, weekly groceries, or web-clicks), when the customer's transactions are added over all vendors he or she uses during a given time-period. In other words, the business potential is a measure of a transaction quantity (e.g., money) a

customer has to spend. Thus, the present invention provides a measure of the potential transaction quantity for the user.

Anderson does not teach the claimed method of predicting business potential. In contrast to the claimed limitations, Anderson recites a method for ordering customer records to determine their relevance to a particular item of interest. The method of Anderson includes searching customer records stored in a marketing database and assigning a score for the customer, where the score corresponds to a particular item or service. Thus, the method of Anderson appears to describe a method for determining the likelihood a customer will be attracted to purchase a particular item, not the amount of money (or other transaction quantity) the customer has to spend in the market segment.

Using an example from Anderson, given a 15 year old male from New York, a product affinity model would say that such a customer has more interest in a skateboard (i.e., has a 90 score) than an 80 year old female from a rural town (i.e., who has 10 score). The 90 and 10 scores however do not say anything about the business potential for either user to actually purchase the skateboard. In other words, neither score provides a measure of the transaction quantity the customer potentially has to spend in that market segment (i.e., the 15 year old's relative interest in the skateboard does not tell whether he actually has the business potential to purchase the skateboard).

Accordingly, withdrawal of this rejection is respectfully requested. Withdrawal of the rejection of Claim 10 is also requested for similar reasons.

Rejections under 35 U.S.C. § 103

Claims 7 and 16 stand rejected as obvious over U.S. Patent No. 6,078,892 ("Anderson"), and Claims 2 and 11 stand rejected as obvious over U.S. Patent No. 6,078,892 ("Anderson") in view of *Relationship in Relationship Marketing* ("Novo"). However, Anderson does not teach or suggest the limitations of independent Claim 1, from which Claims 2, 7, 11, and 16 depend. Moreover, even if combine with Novo, the combination of Anderson and Novo would not teach all the limitations of Claims 1 and 10. According to the Examiner "Novo teaches the step of ranking all of the company's customers by the amount of money spent." Novo simply teaches the concept that the most frequent, most recent and highest spending customers are more likely to buy again, indicating that marketing should be directed at these customers. It is not clear how this can be applied to Anderson to generate a customers affinity for a particular product. Moreover, even if combined with Anderson, Novo does not teach or suggest predicting the value of a transaction quantity for a customer. Put another way, Novo simply

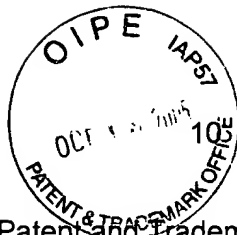
says that marketing should be directed to the highest paying, most frequent, most recent customers and Anderson predicts whether a particular customer will be interested in a particular item. Neither Anderson nor Novo assigns "a value for the business potential for the first customer, wherein the value is a function of at least a behavior for a group of other individuals in a population and is based at least in part on the data, and wherein the business potential measures a potential transaction quantity available for the first customer." Therefore, Applicant submits that neither Anderson nor Novo, alone or in combination, recites all the limitations of the claims.

IDS REFERENCES

The Applicant filed an information disclosure statement (IDS) in the present application on October 22, 2004 and another IDS on March 30, 2005. The Applicant notes that the Office Action was not accompanied by a copy of the listing of references (Form PTO-1449) submitted with this IDS, initialed by the Examiner to indicate that the references cited therein were considered. Therefore, the Applicant respectfully request that the Examiner consider the references cited in this IDS and forward a copy of the initialed Form PTO-1449 to the Applicant.

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1, 2, 6, 7, 10, 11, 15, and 16. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

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The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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